

Fiscal Management

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6-01 FEE SCHEDULES

A. Maintenance of Fee Schedules

The Michigan Department of Treasury was responsible for updating fee schedules pursuant to statutes, however, they had not updated the schedules since 1985. In 1993 the State Court Administrative Office took responsibility for updating the fee schedules. Updates to circuit and district fee schedules will be provided through the Michigan Supreme Court Report. Questions should be directed to the State Court Administrative Office. [MCL 21.41 et seq., MCL 141.421 et seq.]

B. Limitations on Fees

A judge of any court, sheriff, bailiff, district court magistrate, or other officer, or other person except attorneys at law to whom any fees or compensation shall be allowed by law for any service, shall not take or receive any other or greater fee or reward for his/her service, but such as is or shall be allowed by the laws of this state.

[MCL 600.2513]

No fee or compensation allowed by law, shall be demanded or received by any officer or person for any service, unless such service was actually rendered by him/her; but this section shall not prevent any officer from demanding any fee allowed for any service of which s/he is entitled by law to require the payment previous to rendering such service. [MCL 600.2516]

A violation of either MCL 600.2513 or MCL 600.2516 shall be deemed a misdemeanor; and the person guilty of a violation shall be liable to the party aggrieved for treble the damages sustained by him/her, and shall be a cause for forfeiture of office.

[MCL 600.2519]

(see also Section 5-09, page 5-09-02)

C. Fee Schedules Issued to the Courts

Updated fee schedules were issued by the State Court Administrative Office for the district courts, circuit court, and probate courts on the following dates:

1. District Court Fees - July, 2002
2. Circuit Court Fees - April, 1998 including portions of Mich Sup Ct AO 1994-5 associated with Family Division
3. Probate Court Fees - April, 2000

Other bulletins are issued regarding mileage rates for service of process, revisions to accounting procedures, child care fund collection fee, and various other matters pertinent to fiscal management. For court fee and service of process schedules which are issued by the State Court Administrative Office, see the State Court Administrative Office website at: <http://courts.michigan.gov/scao/resources/other/ffc.htm>.

D. Interest on Civil Judgments

The State Treasurer is required to periodically inform the court of any adjustment to the interest rate on civil judgments. For current or historical information, contact the Michigan Department of Treasury.

Michigan Department of Treasury
Treasury Building
Lansing, Michigan 48922
(517) 373-3200

The State Court Administrative Office sends a copy of this information to the courts through the Michigan Supreme Court Report twice yearly. The information is also available on the Department of Treasury's website at www.treas.state.mi.us. See the State Court Administrative Office website at: <http://courts.michigan.gov/scao/resources/other/ffc.htm> for the table.

6-02 RECOMMENDED FINES AND COSTS SCHEDULE - CIVIL INFRACTIONS

The State Court Administrator annually publishes and distributes (through the Michigan Supreme Court Report) to each district court a recommended range of civil fines and costs for first-civil infractions; for the latest version of this schedule, see the State Court Administrative Office website at: <http://courts.michigan.gov/scao/resources/other/ffc.htm>. This recommendation is not binding upon the courts having jurisdiction over civil infractions but is intended to act as a normative guide for judges, district court referees, and district court magistrates and as a basis for public evaluation of disparities in the imposition of civil fines and costs throughout the state. [MCL 257.907(8)]

Each district and municipal court may establish a schedule of civil fines and costs to be imposed for civil infractions which occur within the respective district or city. If a schedule is established, it must be prominently posted and readily available for public inspection. A schedule need not include all violations which are designated by law or ordinance as civil infractions. A schedule may exclude cases on the basis of a defendant's prior record of civil infractions or traffic offenses or a combination of civil infractions and traffic offenses. [MCL 257.907(7)]

Civil infractions committed by juveniles are under the jurisdiction of the family division of the circuit court. Unless a circuit court waives jurisdiction over these civil infractions within the geographic jurisdiction of the district court, a circuit court should consider adopting a schedule of civil fines and costs similar to those used by the district courts.

6-03 BUDGETING

The Supreme Court requires each trial court to "submit its proposed and appropriated annual budget and subsequent modifications to the State Court Administrator at the time of its submission to or receipt from the local funding unit or units." [Mich Sup Ct AO 1998-5]

The budget submitted must be in conformity with a uniform chart of accounts. If the local funding unit requests that a proposed budget be submitted in line-item detail, the chief judge must comply with the request. If a budget has been appropriated in line-item detail, without prior approval of the funding unit, a court may not transfer between line-item accounts to: (a) create new personnel positions or to supplement existing wage scales or benefits, except to implement across the board increases that were granted to employees of the funding unit after the adoption of the court's budget at the same rate, or (b) reclassify an employee to a higher level of an existing category. A chief judge may not enter into a multiple-year commitment concerning any personnel economic issue unless: (1) the funding unit agrees, or (2) the agreement does not exceed the percentage increase or the duration of a multiple-year contract that the funding unit has negotiated for its employees. Courts must notify the funding unit or a local court management council of transfers between lines within 10 business days of the transfer. The requirements shall not be construed to restrict implementation of collective bargaining agreements.

The State Court Administrative Office has established a procedure that requires that budget materials be forwarded to its Regional Administrative Offices. Regional administrators review proposed and appropriated budgets and supplements in order to be familiar with budget circumstances of each court for the purpose of analyzing trends in funding levels and to be prepared in the event of fiscal crises in their constituent courts.

6-04 AUDITS

Under the Uniform Budgeting and Accounting Act of 1978 local units of government (counties, cities, villages and townships) of less than 1,000,000 population are required to "have an annual audit of its financial records, accounts and procedures except that in the units of local government having a population of less than 2,000 such audits shall be required not less frequently than biennially." Local units of government with 1,000,000 or more population are required to obtain an annual audit, "except that if internal auditing procedures for all public moneys are established, and a copy of the annual internal audit of all public moneys is filed with the state department of treasury, then an independent audit shall be required not less frequently than each 5 years." The State Treasurer prescribes minimum auditing procedures and standards for these audits. Generally, local units of government have retained the services of certified public accountants to perform the required audits.

Current Michigan Law, however, is unclear as to the audit requirements for revenues received and disbursed by court operations including trust and depository accounts maintained and administered by the courts (i.e., friend of the court support account; bond and trust account; depository account used for fines, costs and fees; etc.). Because most of the annual audits are contracted by the funding unit, the Audits performed by certified public accountants in compliance with the Uniform Budgeting and Accounting Act of 1978 generally only include an examination of the operational expenditures of the court at the local funding unit level. An audit of court revenues and expenditures including an examination of trust and depository accounts is generally not included in the scope of these audits.

It is recommended that court revenues, expenditures and all funds maintained by the court be audited on an annual basis. The Internal Audit Section within the Supreme Court Finance Department periodically performs court audits but an audit of all courts within the State of Michigan on an annual basis is not possible due to their limited audit staff. The Internal Audit Section also periodically performs one day internal control and accounting system reviews at court operations.

It is recommended that the chief judge communicate the need for an annual audit of all of the court's revenue and expenditure accounts including the trust and depository accounts. Funds for performing these audits should be included within the court's operational budget request, and a written request should be sent to the local unit governing body requesting an audit.

If you would like further information relative to an audit of your court, contact your SCAO Regional Administrator or the Audit Manager for the Michigan Supreme Court Finance Department at 517-373-5544.

6-05 TRIAL COURT FINANCIAL MANAGEMENT GUIDELINES

A. Introduction

The chief judge has the management responsibility to ensure that an adequate accounting and internal control system is in operation to safeguard all court receipts and disbursements. The court administrator, friend of the court or county clerk should develop, implement and administer procedures which will provide for an adequate accounting and internal control system. The following financial management guidelines are to be used for the collection, disbursement and control of court funds.

B. Accounting System

The receipt and disbursement of all court collections should be properly recorded in an accounting system (automated or manual) that provides for source documentation and records of original and final entry. These receipt and disbursement records should provide an audit trail to the source document and case file records. The accounting system should be maintained on a current basis and balanced to subsidiary records monthly.

C. Automated Accounting and Case Management System Security

1. If an automated accounting or case management system is utilized, access to the system should be restricted as to the functions that employees are able to perform. Proper security should be established within the system which will provide an adequate internal control structure.
2. Employee user classifications and security within the system should be established, monitored and controlled by court management.
3. The system should provide data or reports that reflect user classifications for each employee which are periodically reviewed by court management.
4. Each employee should have a unique password to access the system which is known only to that employee. At a minimum, passwords should be changed every six months.
5. Employees who are involved in opening the mail, receipting payments, balancing the accounting records and performing the bank reconciliation should not have the capability to delete case files, make adjustments to payment records or modify court orders in the automated system.
6. The system should provide reports that reflect case files and case file financial data that have been deleted, adjusted, or modified.

7. Employees who receipt payments should not have the capability to generate court checks from the automated system.
8. Cases received by the court should be assigned numbers and logged in through an automated or manual process when received. The court should maintain an automated or manual case file management system that provides for the proper accountability of all cases received.
9. Courts are discouraged from purchasing and distributing citations to local law enforcement agencies, while continuing to work with local agencies to eliminate duplicate numbering systems. If a court does purchase and distribute citations, they should be prenumbered and the distribution properly accounted for by the court.

D. Internal Control System

The American Institute of Certified Public Accountants (AICPA) defines internal control as follows:

"Internal control comprises the plan or organization and all of the coordinate methods and measures adopted within a business, government, or department thereof to safeguard its assets, to check the accuracy and reliability of its accounting data, promote operating efficiency, and encourage adherence to prescribed managerial policies."

1. Duties and responsibilities for handling receipts and disbursements should be arranged and separated so that an employee does not perform more than one of the following functions:
 - a. Opening the mail.
 - b. Receipting payments.
 - c. Balancing receipts to the accounting records.
 - d. Performing the bank reconciliation.

Court management must realize that a greater risk in safeguarding receipts will exist if duties and responsibilities are not appropriately arranged and separated. In smaller courts, where the number of employees is limited and duties can not be adequately separated, court management must provide a greater review and supervision of employee functions and procedures.

2. Position descriptions should be developed for employees who are involved in the receipt and disbursement process which clearly defines the duties and responsibilities of each employee. These duties and responsibilities should be periodically reviewed by court management.

3. All employees who are involved in the receipt and disbursement process should be bonded. In addition, employees in positions of trust should be required to take annual vacations during which time their duties are performed by other personnel. In larger courts, employees should be periodically rotated between various job duties.

E. Bank Accounts

1. Type of Accounts

A bank account in the name of the court should be established only when the account is necessary for the proper receipt and disbursement of certain funds. Generally, there are four types of court bank accounts:

a. Trust Accounts

1) Friend of the Court Account

A trust bank account is established for the receipt and disbursement of all friend of the court collections.

2) Bond and Trust Account

A bond and trust account is established for the receipt and disbursement of bond and other trust funds such as restitution.

3) Court-Ordered Account

An escrow account is established for a specific case as the result of a court order.

b. Depository Account

A depository bank account in the name of the court is established for the receipt and disbursement of funds received that are transmitted on a monthly basis to the local funding unit, state and other governmental agencies.

c. Bank Accounts Reimbursed by the Funding Unit

Some courts administer and control accounts that are funded through the funding unit such as jury fee and witness fee bank accounts.

d. Operational Bank Accounts

Court agencies which operate independent of the funding unit(s) may maintain bank accounts in support of the operational costs of the court (payroll, travel, contractual services, supplies, rent, equipment, etc.).

2. Authorized Check Signers

- a. Check signers should be authorized by the chief judge or designated court head. A copy of the bank signature card or letter authorizing the check signers should be on file at the court.
- b. The court should not use a rubber stamp in providing an authorized signature. Original signatures should be required on all checks except for friend of the court checks issued through an automatic check writing process.

3. Check Registers

An automated accounting system must provide a check register that lists check numbers in numerical order to meet fundamental internal control requirements. Standards regarding check registers have been produced by the State Court Administrative Office and are available at the SCAO website at: <http://courts.michigan.gov/scao/resources/standards/#chk>.

4. Bank Reconciliations

- a. Bank reconciliations for all court bank accounts should be completed monthly and maintained on a current basis. The reconciliation should be completed within 10 working days from receipt of the bank statement.
- b. Bank reconciliations should be completed by someone who is not involved in opening the mail, receipting payments, or balancing receipts to the accounting records. In addition, the person who performs the bank reconciliation should not be an authorized check signer on the bank accounts being reconciled.
- c. Bank statements should be unopened when received by the bank reconciler.
- d. The bank reconciliation process should consist of the following:
 - 1) Checks cleared by the bank should be verified to checks cleared by the court. For automated bank reconciliation programs, this process would consist of verifying the total of cleared checks per the bank statement (total debits less debit adjustments) to the total of cleared checks per the court system total.

- 2) Deposits recorded on the bank statement should be verified to deposit records per the court. This should include a review to determine that deposits were made on the date that the deposit should have been transmitted to the bank. All deposits in transit and any overages or shortages should be properly accounted for.
- 3) All debit and credit memos reflected on the bank statement should be reviewed and properly accounted for in the court's accounting records and bank reconciliation.
- 4) The ending bank statement balance should be reconciled to the book balance of the court including the identification of all reconciling items (deposits in transit, outstanding checks, overages, shortages, unrecovered NSF checks, bank service charges, checks cleared in error, bank errors, credit memos, debit memos and other items on the bank statement that are not on the court records and vice versa). Reconciling items should be brought to the attention of the bank and responsible court staff. The items should be properly disposed of, adjusted and eliminated prior to completion of the following month's bank reconciliation.
- 5) If an unreconciled difference between the bank statement balance and the court book balance exists, the following guidelines can be used in locating the differences:
 - a) Repeat steps 1 through 3 above.
 - b) If the cleared checks total per court records does not agree with the bank total (number 1 above), review the bank statement for checks that may have been cleared by the bank twice or may have been cleared at an amount different than the amount cleared by the court.
 - c) Examine voided checks making sure that checks voided after the bank reconciliation date (usually the bank statement ending date) but dated prior to the bank reconciliation date are reflected as outstanding on the outstanding check list.
 - d) Make sure that NSF checks have been properly reflected in the bank reconciliation including those from the prior month that have not been recovered. Trace all NSF debits and credits shown on the bank statement to both the prior bank reconciliation and the current month's listing of unrecovered NSF checks.
 - e) Go back to the prior month's bank reconciliation, cleared checks report and outstanding check listing and make sure that all reconciling items and adjustments from the prior month were either cleared or have been properly brought forward to the current month's bank reconciliation.
- 6) Unreconciled differences between the bank statement balance and the court book balance should be resolved on a timely basis. Should an unreconciled difference exist which cannot be found, the unreconciled difference should be properly adjusted through the local funding unit or court's operational budget on an annual basis.

- e. In order to properly monitor the completion of bank reconciliations on a current basis and to be aware of any unreconciled differences, completed bank reconciliations should be periodically reviewed by court management.

5. NSF (Non-Sufficient Funds) Checks

- a. The payer should be immediately contacted when the NSF check notice is received from the bank.
- b. A procedure should be established for handling checks deposited that are returned NSF. This procedure should include maintaining a listing of all NSF checks received and the proper accountability and enforcement for the recovery of the NSF checks. Accounting and case file records should be reduced or adjusted by the amount of the NSF check at the time the NSF check notice is received from the bank.
- c. Any NSF service fees assessed by the bank should be charged to the payer. The court may charge a service handling fee to the payer for an NSF check even though the bank does not.
- d. No personal checks should be accepted from individuals after two checks have been returned NSF.
- e. NSF checks which have not been collected after 60 days should be referred to the local prosecuting attorney for collection.

6. Escheating Old Outstanding Checks

Old outstanding checks should be periodically reviewed and escheated to the State of Michigan. The Unclaimed Property Division of the Michigan Department of Treasury requires that all uncashed checks unclaimed for a period of one year, including undeliverable and outstanding checks, should be escheated as prescribed in Treasury regulations. Use the Michigan Department of Treasury form 2011 (formerly C-7071). Before filing a report with the State Treasurer regarding the property, the court should send notice of intent to escheat to the owner (SCAO Approved form MC 25). Notice must be sent not less than 60 days nor more than 365 days before filing the report. [MCL 567.234, MCL 567.238(5)]

If a person entitled to receive restitution which the court has collected fails to claim it from the court within two years of being eligible to do so, the court must remit the unclaimed amount to the Crime Victim's Rights Fund on its monthly transmittal to the state. That person may subsequently claim the restitution by applying to the court which collected and remitted it. The court must notify the Crime Victim Services Commission of the claim, and the Commission must approve a reduction in the transmittal to the Crime Victim's Rights Fund to pay the victim. [MCL 780.766(21), MCL 780.794(21), MCL 780.826(18)]

7. Old Court Bank Accounts - Unidentified Balances

Any funds that exist in an old court bank account which cannot be identified to a defendant, support recipient, restitution victim, governmental agency, or other court payee should be escheated to the State of Michigan as prescribed in Treasury regulations. Use the Michigan Department of Treasury form 2011.

F. Collections

1. Centralization of Collections

All payments received by the court should be collected and receipted in one centralized location. The number of employees authorized to receive checks, money orders and cash should be restricted to a limited number of employees. If possible, one or two employees (or more depending on the size of the office) should be assigned as cashiers and the only employees authorized to collect and receipt both in-office and mail payments. Probation officers and other court employees who are not within the main accounting or cashiering unit should not be allowed to collect any payments.

2. Receipting Payments to the Accounting System

All payments received by the court should be receipted and recorded in the court's accounting system and deposited into the court or funding unit bank account.

3. Mail Opening Process

- a. Employees who open the mail should not be involved with receipting payments, balancing the accounting records, or performing the bank reconciliation.
- b. Checks, money orders and cash received in the mail should be recorded on a mail log prepared by the mail opener or, as a minimum, an adding machine tape should be prepared. This process may not be possible in courts with only a few employees. If a mail log is prepared, it should indicate the date received, payer's name, type of payment (check, money order, or cash), check/money order number and amount.
- c. Checks and money orders should be endorsed for deposit at the time the mail is opened and after they are properly identified as being payable to the court. If the court validates checks and money orders through a cash register system, however, the validation may not be done until the payment is receipted to the cash register system.
- d. All "cash" received in the mail should be verified at the time the mail is opened by another employee and records should identify the receipt of "cash" and the initials of both employees.

- e. Checks and money orders received by the court in error should be noted on the mail log or documented in a separate record. These checks and money orders should be appropriately forwarded to the proper payee or returned to the payer rather than deposited in the bank account.
- f. After all checks, money orders and cash have been recorded and totaled on the mail log or adding machine tape, the log or tape should be initialed by the mail opener. The mail log or adding machine tape should then be forwarded to the employee who balances receipts to the accounting records while the checks, money orders and cash should be given to the employee who performs the receipt function (see paragraph F.7.e. on page 06-05-12).
- g. All mail payments should be receipted to the accounting records on the day received or no later than at the end of the next business day.

4. Receipt Process

- a. Employees who receipt payments should not be involved with opening the mail, balancing receipts to the accounting records, or performing the bank reconciliation.
- b. If the court is on an automated receipt system, each employee should have a separate unique password for receipting payments which is known only to the employee. The system should provide an audit trail tracing each receipt to the employee who entered it in the system.
- c. Each employee authorized to receipt in-office payments should be assigned to a separate cash drawer with access to the drawer being restricted to the assigned employee.
- d. Receipt records should indicate the type of payment (check, money order or cash), date received, amount received and case number. The check or money order number should also be indicated. If the court is on a manual receipt system, receipts should be prenumbered. Automated systems should provide a receipt or transaction number.
- e. If the court is on an automated accounting system, the system should not allow a receipt to be written to a lesser amount, edited or deleted once the receipt has been accepted in the system.
- f. A receipt should be attached to or placed in the case or other permanent file unless an automated financial case management system is in operation which provides receipt information in the automated case file record.
- g. A receipt should be provided to the payer for in-office payments.

- h. Checks and money orders received for in-office payments should be endorsed for deposit or validated for deposit on the cash register at the time the payment is receipted.
- i. After receipting, undeposited checks, money orders and cash should be kept in a locked drawer or other locked device during the day.
- j. If the court is closed noon hours, undeposited checks, money orders and cash should be kept in a secure location which is not accessible to the public and court employees.
- k. Cash on hand balances used for making change should be kept at a minimum.
- l. Third party checks should not be accepted.
- m. Overpayments of fines, costs, fees and restitution should be refunded by check to the payer. If the court has a policy of not returning overpayments below a certain amount, the overpayment should be receipted and transmitted to the funding unit.
- n. Canadian and Other Foreign Currency

If possible, the court should only accept U.S. currency. There are some circumstances, however, where Canadian or other foreign currency is received and must be accepted by the court. The below receipt guidelines should be followed when foreign currency is accepted:

- 1) A separate deposit should be prepared for Canadian and other foreign checks, money orders and cash.
- 2) Payments should not be receipted to a court's accounting records until after the bank has been contacted and an adjustment to U.S. currency has been made.
- 3) For friend of the court offices, it may be necessary to receipt the payments to a suspense account at the Canadian or foreign amount. The suspense account is subsequently discounted or adjusted to U.S. currency when notification is received from the bank. A disbursement is then made to the recipient at the U.S. currency amount.
- 4) The court should maintain accounting records that properly control and provide an audit trail for the receipt and disbursement of Canadian and other foreign funds.
- 5) Any bank charges for Canadian and other foreign deposits should be adjusted and charged to the payer's account or case.

- o. The court should not assess or collect fees for services ordered by the court or required by statute or court rule when the services are not performed by the court. Examples include process server fees, or counseling, treatment or educational programs.
- p. If the court accepts credit and debit cards in payment of monies due to the court, proper controls should exist relative to the acceptance of these charges. This includes determining the proper identification of the person paying by credit card, verification with the credit card company, and determining information required for credit card payments made over the telephone, if accepted by the court.
- q. Court employees authorized to waive fines, costs and fees should attach documentation presented by the defendant to tickets or case file records when fines, costs and fees are waived.

5. Voided Receipts

Proper security and controls should exist regarding the voiding of receipts as follows:

- a. The original voided receipt should be retained with balancing records. In addition, voided receipts should be marked "VOID", indicate the reason for the void and reflect the reissued receipt number, where applicable.
- b. A review procedure should exist whereby an employee verifies the voided receipt total per the cash register tape or accounting system report to the original voided receipts. This review should ensure that all receipts voided were proper and that the receipts were reentered in the accounting system unless a justified explanation is provided as to why a voided receipt was not reentered.
- c. The review procedure in a manual receipt system should consist of verifying that all receipt numbers are accounted for in the receipts journal with the proper accountability of all voided receipts. Receipt numbers that have been voided should be marked "VOID" in the receipts journal.
- d. The employee who reviews voided receipt totals and ensures that all voids were proper and justified should be independent of the receipt process. Also, this employee should not be authorized or have the capability to void or edit receipts.
- e. The automated system should not omit voided receipts from daily receipt reports. When a receipt is voided, the transaction should be appropriately posted to payment records in the automated case management system.
- f. The accounting system and cash register should not allow for negative entries to be entered without a case file number also being entered. Otherwise, receipts totals could be reduced while case file payment records are not changed.

6. Manual Receipts

Proper controls should exist regarding the use of manual receipts. These controls are required whether the court is on a manual or automated accounting system.

- a. All manual receipts should be prenumbered, reflect the name of the court and provide at least two copies.
- b. Manual receipt books should be under the control of a supervisor who should maintain a record of all receipt books used and unused.
- c. Manual receipts should not be located in any court offices other than the main cashiering unit.
- d. Unused manual receipts should be kept in a secure location.
- e. Manual receipts should be properly accounted for with verification of the beginning sequence number to the ending sequence number by the employee who balances receipts to the accounting records.
- f. The employee who reviews and accounts for manual receipts should not be involved in the receipt process.
- g. If the court is on an automated accounting system, manual receipts should only be used when the system is not operational and it becomes necessary to write a receipt.
- h. Manual receipts used when the automated accounting system is not operational should reflect the automated receipt number used when the receipt is subsequently entered in the automated accounting system.
- i. Manual receipts used when the automated accounting system is not operational should be reviewed by an employee independent of the receipt process to ensure that the receipts were subsequently entered in the automated accounting system. This review could be done on a periodic basis.

7. Balancing the Accounting Records

- a. Employees who balance receipts to the accounting records should not be involved with opening the mail, receipting payments or performing the bank reconciliation.

- b. If the court has assigned employees as cashiers with separate cash drawers, each cashier should count the cash in his or her drawer at the end of the day. These employees should sign or initial a report reflecting the checks, money orders and cash counted. The checks, money orders and cash should then be forwarded to the employee who balances the accounting records.
- c. Checks, money orders and cash should be counted by the employee who does the balancing and verifies receipts to the total per the accounting records. The process should include verification of total "cash" receipts per the accounting records to actual "cash" counted.
- d. Receipt or transaction numbers should be accounted for with verification of the first number of the accounting report or journal following the last number from the previous accounting report or journal to ensure that numbers have not been missed.
- e. If a mail log or adding machine tape of checks, money orders and cash received in the mail is prepared, the mail receipt total per the accounting records should be compared and verified to the total reflected on the log or tape. The employee who performs this verification should sign or initial the log or tape. If a portion or all of the payments are not receipted to the accounting records on the same day they were received, an audit trail of the mail or adding machine tape from the date received to the date receipted should exist.
- f. The court should not maintain an over/short fund to balance overages and shortages. Overages should be remitted to the local funding unit while shortages should be replenished through the court's operating budget.
- g. Overages and shortages should be reported to court management with any significant overages and shortages being investigated and reported to the chief judge in writing. Court management is responsible for reviewing and monitoring periodic overages and shortages.
- h. Receipt totals should be summarized on an accounting report, cash register tape or summary cash receipts report with any overages and shortages being identified.
- i. The employee who balances receipts should sign or initial the accounting report, cash register tape or summary cash receipts report as verification that receipts were balanced and that any overages or shortages have been identified.
- j. If the back side of checks and money orders are receipt validated through the cash register, the balancing and deposit preparation process should include a review of the back of all checks and money orders to be deposited to ensure that they were properly validated. This review should provide verification that the checks and money orders were receipted in the cash register system.

- k. Checks and money orders to be deposited should be listed on the deposit slip or, as a minimum, there should be an adding machine tape of checks and money orders being deposited which should be retained by the court.
- l. Checks, money orders and cash received for unknown cases or cases not yet received by the court should be deposited in the bank within one day from the date of receipt rather than held undeposited. If the court maintains a suspense bank account to deposit these funds, the account should be reviewed monthly and suspense funds properly disposed of. Suspense bank account balances should be kept at a minimum.
- m. Undeposited checks, money orders and cash should be kept in a locked safe or other locked secure device at night.
 - 1) Access to the safe or secure device should be restricted to a few court employees.
 - 2) The safe or secure device combination or lock should be periodically changed and changed whenever someone terminates employment with the court that knows the combination or has a key to the safe or secure device.
- n. Court agencies that have a large amount of checks, money orders and cash to be deposited should utilize locked bank bags.
- o. In no case should employees or other individuals be allowed to cash checks (personal, court, funding unit, etc.) from undeposited cash receipts.
- p. Proper security should be utilized for the transmission of the deposit to the bank or funding unit.
- q. The employee who transmits the deposit to the bank or funding unit should be required to provide a deposit validation slip from the bank or funding unit to a supervisor. The supervisor should verify that the deposit was actually made on the date transmitted and in the amount reflected on daily balancing records.
- r. If the court deposits directly with the funding unit, staff at the funding unit should count and verify the deposit amount in the presence of the court employee who transmits the deposit.
- s. If the court operates separate sub-offices which collect and receipt payments, the money should be deposited with the centralized office at least once a week.
- t. If security carriers or law enforcement agencies transmit deposits to the bank, a record showing the date, time, amount of deposit, number of bags (should be locked bags) and carrier signature should be maintained by the court.

- u. Deposits should be made no less frequently than every two days. In smaller court agencies, deposits should be made whenever the collection total reaches \$1,000 or at least weekly even if the total is less than \$1,000.

G. Disbursements

1. All disbursements made by the court should be made through the issuance of a check. In no case should a disbursement be made in cash or should a check be made payable to "cash". A court's automated accounting system must provide a check register that lists check numbers in numerical order (see page 6-05-04).
2. Checks should not be presigned.
3. Blank checks should be stored in a secure area and should not contain any authorized signatures.
4. Any check number missing as the result of an error made by the vendor should be properly documented and accounted for in the court records.
5. The court should provide proper security in the use and control of facsimile signature plates.
6. Friend of the court checks should only be printed and issued after the deposit has been verified to the accounting records.
7. Proper controls and security should exist for the voiding and reissuing of checks in friend of the court offices. This function should be restricted to employees who are not involved in the receipt and disbursement process and documentation should be maintained in support of all checks voided and reissued.
8. A replacement check should be reissued to a payee only after the payee has signed an affidavit indicating that the original check was not cashed. Documentation should be maintained by the court in support of replacement checks issued.
9. Friend of the court checks for state collections in TANF or FIP cases should be transmitted by depositing the funds in the state treasurer's account at the local bank.
10. Collections transmitted to the local funding unit should be reconciled to the accounting records and bank account prior to submission of the check to the funding unit.
11. All transmittals and disbursements due to the local funding unit, state and other governmental agencies should be submitted on a monthly basis, or as otherwise required. Department of Treasury Letters and Department of Treasury Transmittal Advice Forms and Instructions are available at the Department of Treasury website at: http://www.michigan.gov/treasury/0,1607,7-121-1751_2164---,00.html. See a distribution of fines and costs table for civil infraction and misdemeanor violations at the SCAO website at: <http://courts.michigan.gov/scao/resources/other/disttbl.pdf>.

12. Collections should be transmitted to the local funding unit within ten business days following the end of the month unless some other agreement has been made between the local funding unit and the court.
13. A receipt from the local funding unit should be obtained and retained with the court copy of the transmittal advice.
14. Statutory service fee checks from the friend of the court office should be remitted to the county no later than one business day after the date of the check.
15. If the court receives garnishment checks and endorses the checks to the plaintiff rather than depositing the checks in the trust account, an accurate record of receipts and disbursements should be maintained and checks held in a secure area prior to release.

H. Bonds, Restitution and Other Trust Funds

1. A subsidiary ledger should be maintained for bonds, restitution and other trust funds held by the court. The ledger should reflect receipts, disbursements and the outstanding balance for each case.
2. The total outstanding balance in the bond, restitution and trust ledger(s) should be reconciled to the applicable trust bank statement balance or local funding unit trust account balance on a monthly basis. The reconciliations should be retained for audit.
3. Open bonds, restitution and other trust funds reflected in the subsidiary ledger should be reviewed annually for lack of progress. Open bonds and other trust funds, with the exception of restitution, should be escheated as prescribed in Treasury regulations to the Unclaimed Property Division of the Michigan Department of Treasury. Unclaimed bonds should not be forfeited to the funding unit unless the defendant has not complied with the conditions of bail.

If a person entitled to receive restitution which the court has collected fails to claim it from the court within two years of being eligible to do so, the court must remit the unclaimed amount to the Crime Victim's Rights Fund on its monthly transmittal to the state. That person may subsequently claim the restitution by applying to the court which collected and remitted it. The court must notify the Crime Victim Services Commission of the claim, and the Commission must approve a reduction in the transmittal to the Crime Victim's Rights Fund to pay the victim. [MCL 780.766(21), MCL 780.794(21), MCL 780.826(18)]

4. All payments received for bonds, restitution and other trust funds should be receipted and deposited through the accounting system of the court.

5. Receipts should be provided to police agencies at the time bonds are received by the court. If receipts are not issued at the time bonds are received, the employee who receives bonds from police agencies should maintain a record or log that reflects all bond monies received and provides an audit trail to receipt records in the accounting system.

An employee who is not involved in receiving bonds from the police agencies should receipt the bonds to the accounting system or otherwise periodically review bond records and verify that bonds received were appropriately receipted to the accounting system.

6. A copy of the bond receipt and a record of the bond disposition should be filed and recorded in the case file or noted in the automated case management record.

7. Applying Bonds to Fines, Costs, Fees and Restitution

- a. When the full amount of an appearance bond is to be applied to fines, costs, fees and restitution, a check should be drawn payable to the court and appropriately receipted to the accounting system in accordance with the judgment.
- b. If only a portion of the appearance bond is to be applied as fines, costs, fees and restitution, a check should be drawn payable to the court for the amount to be applied, appropriately endorsed, and receipted to the accounting system. The balance should be refunded to the defendant or person who posted the bond through the issuance of a check. In no case should only one check be issued that is payable to the court for the full bond amount, resulting in a cash refund for the difference.
- c. As an alternative to the above, one daily check may be written payable to the court covering all bonds applied as fines, costs, fees and restitution. This procedure is allowed provided that there is an acceptable process and documentation for applying the bonds. If a bond release form is used that requires the signature of the defendant or person who posted the bond, the form should be prenumbered and properly reviewed and accounted for daily.
- d. All bond checks applied to fines, costs, fees and restitution should reflect the case number(s).

8. Bond Refunds

All bond refunds should be made by check and reflect the case number. Bond refund checks should not be cashed by the court. (see also, G.1 on page 06-05–14)

9. Bond Forfeitures

When a defendant does not comply with the conditions of bail and the bond deposit is ordered forfeited, a check should be drawn payable to the court and appropriately receipted to the accounting system. Bond forfeitures should be disposed of between 28 and 45 days from the forfeiture order date. Bond forfeiture checks should reflect the case number.

10. Restitution

Restitution should be deposited in a trust account and all disbursements should be made by check with the case number being properly reflected. Restitution should be disbursed to victims within one week from receipt of the restitution payment unless the defendant makes weekly or biweekly payments in which case monthly disbursements can be made. Restitution disbursements to victims should be made at least once a month.

11. Friend of the Court Trust Account Advances

There are instances where a support payment received by the friend of the court office is misapplied or otherwise sent to a recipient in error. Generally, the funds can be recovered through a subsequent payment made to the office and appropriately directed to the correct recipient. There are certain instances, however, where the funds can not be recovered on a timely basis and where a condition exists that requires an advance be made to a support recipient. An advance of funds should only be made in rare cases when it would cause extreme hardship to the recipient that was denied the funds and after all other possible solutions have been exhausted. When such an advance is made, the procedures below should be followed:

- a. Trust funds in the bank account "float" should not be used to cover an advance made to a recipient.
- b. The proper procedure for advancing funds to a support recipient is to obtain a check, payable to the friend of the court office, from the local funding unit. The funding unit check should then be receipted into the friend of the court accounting system and deposited in the bank account. A friend of the court check should then be issued and properly recorded in the accounting system.
- c. When the advance is recovered from the payee who received the payment in error, the funds should be deposited with the funding unit and properly accounted for and recorded in the friend of the court records.
- d. Records should be maintained by the friend of the court office which provides documentation relative to all advances made by the office. These records should reflect the case numbers, amount advanced, date, amount recovered and unrecovered advance balance.

- e. Friend of the court offices should have a procedure established relative to the advancement of funds to a support recipient and the recovery of the funds from the payee who received the funds in error.
- f. Advanced funds that are considered uncollectible should be periodically written off by the friend of the court office.

I. Receivables

1. Fines, Costs, Fees and Restitution Due from Defendants

- a. A separate receivable account should be maintained for each defendant authorized to make time or installment payments of fines, costs, fees and restitution.
- b. Receivable account records should indicate the case number, defendant name, address, date of sentence, amount assessed, payment terms, receipt date, receipt number, receipt amount and balance due.
- c. The court should have a procedure that enforces and monitors the collection of fines, costs, fees and restitution.
- d. Fines, costs, fees and restitution received from defendants in installment payments should be distributed in accordance with applicable statutes.
- e. All case file balances should be paid in full prior to closing a case where fines, costs, fees and restitution have been ordered unless otherwise closed by a court order.

2. Court-Ordered Parental Reimbursements

- a. A separate receivable account should be established for parental reimbursements due to the court as the result of a court order.
- b. Parental reimbursement receivable records should indicate the case number, payer name, address, amount due, payment terms, receipt date, receipt number, receipt amount and balance due.
- c. The court should have a procedure that enforces and monitors the collection of parental reimbursements.
- d. The court should have a policy regarding the priority for application of installment payments received for parental reimbursements in accordance with applicable statutes.

- e. All account balances should be paid in full prior to closing a case where parental reimbursement has been ordered unless otherwise closed by a court order.

J. Suspected Embezzlement

1. If embezzlement is suspected, or irregularities appear, the chief judge of the court should immediately contact the State Court Administrative Office regional administrator. The regional administrator will contact the appropriate law enforcement agencies (usually the Michigan Attorney General's Office and State Police) to begin a criminal investigation if such action is found to be necessary. In addition, the State Court Administrative Office will arrange for an audit (usually the Supreme Court Internal Audit Section), if necessary. The law enforcement agencies and audit section will work with local court employees, management and judicial staff to expeditiously complete the investigation and audit. During the investigation and audit, court staff should not talk to any suspect (if known), any other court staff or others until given permission by the aforementioned agencies.
2. Complaints from citizens, support recipients and defendants should be reviewed by court management. Special attention should be made to complaints about payments not being properly credited to case records or payments made to the court, which were payable to another individual or organization, that were not received by that individual or organization.

6-06 FUNDING PROBLEMS FOR MULTI-LOCATION COURTS

Multi-location trial courts experience unique funding problems. In many cases, the chief judge and court administrator must perform budgetary responsibility with the governing body of the local governmental unit at each court location.

Under at least two statutes, local governmental units may agree to share court expenses:

A. District Court Act

Under the District Court Act one or more district control units within any district may agree among themselves to share any or all of the expenses of maintaining, financing, or operating the district court. [MCL 600.8104(3)]

B. Intergovernmental Transfers of Functions and Responsibilities Act

Under the Intergovernmental Transfers of Functions and Responsibilities Act, two or more political subdivisions are authorized to enter into a contract with each other providing for the transfer of functions or responsibilities to one another or any combination thereof upon request of each political subdivision involved. [MCL 124.532 et seq.]

6-07 FUNDING UNIT DISPUTES

A. Introduction

In the area of fiscal management, disputes between trial courts and their local funding units concerning adequate funding for the operation of the trial court can create a very trying situation for the court and the local governmental officials involved. (See also Section 5-05, pages 5-05-01 through 5-05-03)

1. Obtaining Funding from Local Government

Through Michigan Supreme Court Administrative Order 1985-6, adopted contemporaneously with issuance of the Judgment Order in 2nd District Court v Hillsdale County, 423 Mich 705 (1985), the Michigan Supreme Court established the procedure trial courts must follow to obtain funding from the local governmental unit to properly perform its duties. Michigan Supreme Court Administrative Order 1998-5 reiterates the procedures.

2. General Procedure Regarding Disagreement on Funding

In the Hillsdale case, the Michigan Supreme Court generally held that when agreement cannot be reached between a court and a funding unit, the court may initiate suit and shall bear the burden of proof regarding expenditures in excess of appropriations. Under the procedure established by Administrative Order 1985-6 and reiterated in 1998-5, the State Court Administrator will assign a disinterested judge to preside over the action.

Before initiating legal action, however, the trial court must notify the State Court Administrator under Supreme Court Administrative Order 1998-5. During the prescribed 30 to 60 day waiting period the State Court Administrator, through the Regional State Court Administrators, attempts to aid the court and the involved local funding unit or units to resolve the dispute.

B. How to Avoid Funding Disputes

The most effective method of handling funding disputes is to avoid them. However, this is not to suggest that courts should concede to inadequate resources. It does mean that cooperatively establishing appropriate funding levels with the executive and legislative branches is the best guarantee that the court will consistently obtain required resources.

1. Fundamentals in Establishing Favorable Relationship with Funding Authorities

There are two fundamentals in establishing a favorable relationship with funding authorities. Those are realistic requests and continuous, effective communication.

a. Realistic Requests

How realistic a request is must be defined on a case by case basis and must be done in the context of the local fiscal situation. Requesting or demanding substantial budgetary outlays at times when a funding unit is in financial crisis, particularly if the need for the outlays are not well substantiated, may not be realistic.

b. Continuous and Effective Communication

Communication is the key to public understanding of the business of the courts and, therefore, an appreciation of its needs. Too many of the public, and those in other branches of government, see courts variously as an agency like any other in the executive branch or solely as a criminal justice agency or enforcement agency. It is the responsibility of the court to ensure that the public and other branches of government have an understanding of the constitutional independence of courts; of their critical responsibility for managing records, information, decision-making, and the enforcement of their decisions; and of their workload and their needs in handling workload.

Studies of the budget decision-making process in state governments show that the most important factors influencing legislative decision-making on budget matters are not demonstrated need or workload statistics, but rather the availability of funds and credibility of the entity requesting funds.

Communication with the funding unit should be ongoing, not just at budget time and not just at times when the court is asking for additional resources. Courts have accomplished this in a variety of ways including the issuance of annual reports (with regular credible data regarding workload); regular meetings with the funding unit or a court advisory body which includes attendance by executive and legislative branch agencies on a regular basis.

C. Early Negotiation

At the earliest sign of disagreement over funding levels for court operations, the chief judge and/or court administrator should attempt negotiations with key executive and legislative branch officials. It is recommended that both the chief judge and court administrator be closely involved in all such negotiations. The chief judge is, by rule, ultimately responsible for operation of the court and, therefore, the chief policy-maker. In the absence of a court administrator, the chief judge is the chief policy implementor as well. Where a court administrator exists, the court administrator should be a policy-maker as well and is chiefly responsible for policy implementation.

D. Involve Your Regional Administrator

The Regional Administrator of the State Court Administrative Office should be notified immediately upon the first sign of any difficulty in budget negotiations if they have not been involved up to that point. The earlier the Regional Administrator can become involved, the easier it will be for the State Court Administrative Office to provide assistance in budget negotiations. Accordingly, it is advisable to keep the Regional Administrator advised of all proceedings relating to the budget even though that office may have no direct involvement in the budget preparation or negotiation process until a later time, or perhaps at any time if problems do not develop.

The chief judge or court administrator of a local trial court may request direct assistance or intervention by the Regional Administrator at any time during the process. The Regional Administrator will respond based on the analysis of the specific situation. This could include direct mediation, arbitration, or negotiation.

E. Third Party Mediation

1. Resources

The Michigan Association of Counties and the Michigan Probate Judges Association, Michigan District Judges Association, and Michigan Judges Association have established a network of volunteer county commissioners and judges, who upon request of the State Court Administrative Office and the Michigan Association of Counties, will act as mediators to assist in resolving disputes which cannot be resolved otherwise. This procedure has been employed prior to legal action and upon agreement of parties after a lawsuit has been commenced. The procedure may be requested by the chief judge through a request to the Regional Administrator.

2. Selection, Expenses, and Procedures

a. Selection of Mediators Based on Voluntary Participation

The procedure requires voluntary participation by the trial court and the funding unit. The Regional Administrator will select a judge-mediator from a list of volunteers approved by the State Court Administrator. In turn, the Michigan Association of Counties will be requested to assist in selection of a mediator from a list of volunteers developed by the Michigan Association of Counties either as a result of a direct request from the funding unit or from the Regional Administrator. The judge-mediator will be appointed formally to the role of mediator through a letter from the State Court Administrator. The two mediators selected will in turn select a third mediator for the panel.

b. Expenses

Expenses for funding unit mediators will be paid by the funding unit. Expenses for the judge mediators will be paid by the State Court Administrative Office.

c. Procedures

Procedures for the mediation will be established on a case by cases basis by agreement of the parties and the mediation panel. Any recommendations or decisions by the mediation panel are not intended to be binding unless the parties stipulate otherwise. No procedural rules exist relating to the admissibility of panel findings or recommendations in any subsequent or pending lawsuit. Accordingly, to the extent that those issues are important to the parties, they should be addressed at the beginning of the mediation process. Because third party mediation was established on an informal basis by the Michigan Association of Counties and various judges' associations, it can be invoked at any time by agreement of the parties involved, and the procedures can be adjusted to fit the circumstances of the dispute under consideration. However, since mediators are volunteers and must take time from their regular duties, third party mediation should not be overused.

F. Lawsuit as Last Resort**1. Notice to State Court Administrator on Intent to File Law Suit**

If a trial court determines that no other recourse is available, it may choose to file a lawsuit against the funding unit. Prior to doing so, the trial court must provide 30 days' notice to the State Court Administrator, in writing, of the intention to file a lawsuit. The letter providing notice should be directed to the State Court Administrator with a copy supplied to the Regional Administrator. The letter should indicate what efforts have been made to resolve differences over budget matters and a summary of the substance of the dispute which will be the subject of the lawsuit, as well as any other matters that the trial court deems relevant. The State Court Administrator, in turn, will acknowledge receipt of the notice indicating the critical dates for the 30 day notice and indicating the type of action that the State Court Administrative Office will undertake to attempt to resolve the dispute.

2. Intervention

In most cases, the matter will be referred to the appropriate Regional Administrator for intervention. The Regional Administrator may employ one of several methods including a review of the budget request and response from the funding unit, attempts at informal negotiation and/or mediation, or referral to third party mediation.

If third party mediation is deemed appropriate by the Regional Administrator or if either the trial court or the funding unit representatives demand third party mediation, the procedure developed jointly by the Michigan Association of Counties and various judges' associations will be implemented.

(see also Section 5-05, Labor Negotiations, pages 5-05-01 through 5-05-03)

6-08 ALTERNATIVE FUNDING SOURCES - GRANTS

A. Introduction

The principal funding source for most court operations is a general appropriation from the court's funding authority. However, occasionally there is an opportunity to obtain funds for court operations or projects for research on improvement of court operations from alternative sources. These alternative sources may well be another governmental entity, or, in some cases, a foundation or charitable institution. Alternative funds will be categorized for purposes of this discussion into entitlements and grants.

B. Entitlement Funds

1. Administration

Entitlement funds are administered by other government units, usually the state or federal government, and are earmarked for the subsidization of specific activities of the local government. Often, a state government agency will administer federal entitlement funds according to specific guidelines set by the federal agency responsible for administration and distribution of funds.

2. Restrictions in Use

Typically, entitlement funds are suitable for reimbursement of governmental activity based on the character and nature of the recipient agency or based on the nature of the activity alone. In either case, use and performance restrictions or guidelines apply. This is because entitlement funds are almost always intended to encourage an activity or activities of a specific nature (i.e., child support enforcement) or to benefit a class of persons or organizations (i.e., local government, the case of reimbursement for prosecution of cases involving prisoners of state prisons).

3. Eligibility

Rules relating to eligibility for these funds are promulgated, distributed, and enforced by administering agencies, usually a state agency (with guidance from federal agencies, if federal funds are involved). If the potential recipient fails to meet performance, record keeping or eligibility criteria for any given funding period, funds will be withheld or in some cases must be returned. Rules change frequently, often with each funding period, and recipients should make sure they are aware of the current rules.

4. Contacts

Some of the agencies which may have available entitlement funds are listed below. The list is not exhaustive, and you may wish to contact the State Court Administrative Office Regional Administrator in your region for further information.

a. Office of Child Support

The Office of Child Support administers federal funds for reimbursement of a percentage of administrative costs associated with the collection of child support. In addition, the office 1) administers funds paid as incentives for efficient collection of child support and 2) reimbursement to prosecuting attorneys and the probate court, juvenile division for costs incurred in complying with the Victim's Rights statutes (see Section 6-14, page 6-14-01) [MCL 780.751-.834]

Family Independence Agency
Office of Child Support
235 South Grand Avenue, Suite 1215
PO Box 30478
Lansing, MI 48909
(517) 373-7570

b. Child and Family Services

Child and Family Services administers the Child Care Fund, State Ward Board and Care, and Aid to Dependent Children in Foster Care which are used to reimburse counties for the placement of children in foster care or other residential programs (see Section 6-10, pages 6-10-01 and 6-10-02).

Family Independence Agency
Child and Family Services
235 South Grand Avenue, Suite 510
PO Box 30037
Lansing, MI 48909
(517) 373-2083

c. Department of Corrections

The Department of Corrections' Finance Division, administers a state mandated program to reimburse circuit courts and prosecutors for costs associated with the prosecution of inmates of state prisons located within the jurisdiction of the court in which the prosecution takes place (see Section 6-12, pages 6-12-01 and 6-12-02).

Department of Corrections
Finance Division
PO Box 30003
Lansing, MI 48909-7503
(517) 373-3797

The offices listed should be contacted for specific guidelines relating to the funds cited.

The State Court Administrative Office makes periodic announcements relating to the availability of and rules pertaining to such funding. If court officials would like assistance in determining the existence of entitlement funds for a specific purpose, the State Court Administrative Office Regional Office should be contacted (see Section 3-01, page 3-01-05 for list of regional offices).

C. Grants

1. Introduction

Grant funding can be an excellent source of funding to supplement local general fund appropriations and entitlement funds. However, general appropriations (and service-related revenues) should always be viewed as the primary source of funding for basic operations. Entitlement funds can usually be viewed in the same sense.

2. Administration

Grant funds are typically awarded for specific activities or projects upon application for limited periods of time, and are often restricted to new or experimental activities. Restrictions on use and application requirements vary widely depending upon program and funding sources. Grant funds available to judicial agencies from the federal government are often administered by state agencies pursuant to annual plans submitted by those state agencies.

3. Eligibility

Most federally supported programs require contributions by grantees of a resource "match" for the grant project, either in the form of the use of existing resources for the project or the use of added local resources. Grant funds available from private foundations, on the other hand, do not universally require matching resources to be contributed by the recipient, but the restrictions applicable to private foundation grants vary widely and should be considered carefully prior to application.

4. Restrictions in Use

In almost all cases, grant funds are available for limited periods for individual projects. Many governmental grant programs require periodic legislative renewal and may, therefore, exist for only a few years.

Because of these restrictions, grant funds should never be viewed as a source for funding basic or ongoing operations. Rather, grants are best used as resources for testing new programs, evaluating existing programs, or research and planning activities. Managers should anticipate that, at the end of a grant period, general appropriation funds must be obtained to continue project activities if it is determined the project is worthwhile and that activities of the project should be maintained over a period of time.

5. Contacts

a. Private Sources

Grant funds are also available from private sources, usually foundations set up specifically to provide resources to worthy programs in specific substantive areas. For example, the Michigan State Bar Foundation awards grants for projects which will benefit the legal system. The Edna McConnell Clark Foundation has funded many projects in the area of juvenile justice.

Another resource is The Michigan Foundation Directory which is available through the Council of Michigan Foundations. This guide contains a complete list of all Michigan Foundations and Michigan Corporate Giving Programs.

Council of Michigan Foundations
PO Box 599
Grand Haven, MI 49417
(616) 842-7080

Most foundations have annual goals for targeting the available funds in that year to certain types of projects. Some foundations have limits on the amounts available per grant, and some have geographic limitations. Each foundation should be contacted individually by letter to determine the rules for application for funding. There are a number of directories and guides relating to private foundation funding. One such resource is The Foundation Directory which is available from the Foundation Center in New York. This publication is updated regularly.

b. State and Federal Sources

Several state and federal offices have offered grant funding of justice system improvement activities. Some of those offices are listed below. Each office should be contacted to obtain current information regarding grant programs.

1) Department of State Police

The Department of State Police is responsible for administration of the Michigan Justice Training Fund which provides grants for the in-service training of criminal justice personnel in the areas of law enforcement, prosecution, correction, defense, and the judicial branch.

Department of State Police
Michigan Justice Training Commission
7426 N. Canal Road
Lansing, MI 48913
(517) 322-6627

2) Family Independence Agency

The Family Independence Agency is responsible for administration of grant funds available from the Office of Juvenile Justice and Delinquency Prevention through the Juvenile Justice and Delinquency Prevention Act.

Family Independence Agency
Juvenile Justice Grant Unit
235 South Grand Avenue, Suite 404
PO Box 30037
Lansing, MI 48909
(517) 335-6128

3) Office of Child Support

The Office of Child Support is responsible both for certain entitlement funds for reimbursement of activities relating to child support enforcement, but is also a conduit for federal grant programs relating to child support activities.

Family Independence Agency
Office of Child Support
235 South Grand Avenue, Suite 1215
PO Box 30478
Lansing, MI 48909
(517) 373-7570

4) Office of Highway Safety Planning

The Office of Highway Safety Planning is responsible for administering federal highway safety fund grants. The office has funded several projects for courts and prosecutors relating to the improved operations of court handling of traffic cases, particularly OUIL cases.

Department of State Police
Office of Highway Safety Planning
4000 Collins Road
PO Box 30633
Lansing, MI 48909-8133
(517) 336-6477

5) State Justice Institute

The State Justice Institute was created by Congress under the State Justice Institute Act of 1984, Public Law 98-620, and is authorized to award grants, cooperative agreements, and contracts to state and local courts and others to improve the administration and quality of justice in state courts.

State Justice Institute
1650 King Street, Suite 600
Alexandria, VA 22314
(703) 684-6100

6) Office of Drug Control Policy

This office is responsible for administering Anti-Drug Abuse Act law enforcement grants to provide funds to assist state and local governments to carry out specific programs that offer high probability of improving operation of the criminal justice system and enhancing drug control efforts at the state and local levels. Funds are administered under the Byrne Memorial Formula Grant.

Office of Drug Control Policy
Lewis Cass Building, 2nd Floor
320 South Walnut
Lansing, MI 48913
(517) 373-4700

7) Drug Courts Program Office

The Drug Courts Program Office (DCPO) was established to administer the Drug Court Grant Program. The Drug Court Grant Program makes grants to states, state courts, local courts, units of local government, and Indian tribal governments to establish drug courts in response to increased numbers of nonviolent, substance-abusing adult and juvenile offenders who contribute to the pervasive problems of prison and jail overcrowding and the high recidivism rate of those offenders.

Drug Courts Program Office
Office of Justice Programs
US Department of Justice
810 7th Street, NW
Washington, DC 20531
(202) 616-5001

8) Michigan Justice Training Commission

The Michigan Justice Training Commission provides funding to state and local agencies in the fields of law enforcement, adjudication, corrections, prosecution, defense, and state supported colleges and universities to provide in-service criminal justice training for its employees or employees of eligible agencies.

Michigan Justice Training Commission
7426 Canal Road
Lansing, Michigan 48913
(517) 322-6627

6-09 COOPERATIVE REIMBURSEMENT PROGRAM

A. Definition and Purpose

The Cooperative Reimbursement Program (CRP) is a contractual agreement between the Office of Child Support, Michigan Family Independence Agency, and the county and circuit court for the provision of federally mandated (IV-D) child support services through the friend of the court office. In general, IV-D child support services include activities to enforce, account for, collect, and distribute child support in cases that have on file a IV-D application for services, but Michigan has been granted a waiver for parenting time services to be included in the program. The contract specifies the respective responsibilities of each party for services, reporting requirements, and financial participation. [45 CFR 302.34, MCL 400.233]

B. General Procedures

Each year the friend of the court, upon authorization of the county board of commissioners and the circuit court, submits an application to the Office of Child Support for reimbursement of IV-D related activities. The application sets forth the activities to be performed, the personnel needed, the other IV-D related office activities, and a budget which estimates IV-D expenses along with a breakdown of state and local shares of those expenses. After review and negotiations, if necessary, by the Office of Child Support and the local signatories, a contract is prepared which outlines services to be provided, expenses to be reimbursed, and the respective parties' shares of those expenses. Upon execution of the contract, the friend of the court performs the services as provided and submits monthly reports to the Office of Child Support for reimbursement of expenses as provided in the contract.

C. Contract Terms and Development

Due to the ever changing laws in the child support enforcement field, terms of the contract change periodically to reflect those changes. The minimum level of state reimbursement of IV-D expenses is established by federal regulation. That level has gradually reduced since the inception of the program with present regulations providing for a floor of 66% state funding as of 1990. The State of Michigan can, and has, subsidized that level which reduces the financial contributions of the county.

D. Financial Benefits to County and Court

The CRP assists the local jurisdiction in the funding of friend of the court offices. Reimbursements made pursuant to the contract offset specific friend of the court expenditures.

The federal IV-D program also provides incentives to child support enforcement agencies through the payment of an incentive based upon the cost effectiveness of the state IV-D program. The incentives are passed through to the local county based upon a formula developed and promulgated by the Office of Child Support, Michigan Family Independence Agency. These incentive payments serve as another friend of the court generated revenue which may be used by the local jurisdiction to offset the local costs of the IV-D program and other friend of the court mandated services. (see also Section 4-04, page 4-04-02)
[45 CFR 303.52]

6-10 FUNDING SOURCES AND COLLECTIONS FOR COURT AND STATE WARDS

A. Funding Sources

There are currently four funding sources for the care of children and youth. The funding sources for which a minor is qualified are influenced by the child's legal status and funding eligibility. Following is an explanation and description of each of the four funds.

1. County General Fund

The primary source of funds for care of minors who are in court custody is the local county general fund.

a. County Child Care Fund

The county treasurer is specifically designated to be the custodian of the Child Care Fund and must deposit in it all funds raised by the county (general fund) for the care of children. This includes costs for minors not under the jurisdiction of the court but served by the local Family Independence Agency office, and minors who are under the jurisdiction of the court. Money returned to the court for foster care of children by the state or the parent must also be deposited in this fund.

[MCL 400.117c]

2. State Child Care Fund Account

This account is not used for direct payment of child care expense. Its use is limited to reimbursement of county child care fund expenditures after they have been incurred and reported.

a. Reimbursable Expenditures

1) Pre-Adoption Care

Foster care costs, not including administrative costs incurred by the placing agency during the release appeal period are reimbursable.

2) Child Care

Reimbursable Child Care Fund expenditures fall into three broad categories:

a) County Operated Child Care Facilities

Reimbursement is limited to the operating cost of the facility. There is no reimbursement for capital expenditures.

b) Out-of-Home Care for Court Wards

Cost for the direct services to court wards placed in foster care, institutional care, or independent living are generally reimbursable. Judicial or court administrative costs are not reimbursable.

c) In-Home Care

Most all costs, except judicial costs incurred in reducing out-of-home days of care through an approved program, are reimbursable. These costs are limited to service which prevent the need to place a youth out of the home or to facilitate the early return of a youth to his/her home.

b. Basic Grant (Juvenile Justice Service)

Counties having a population of less than 75,000 are eligible for a Basic Grant of \$15,000. The Basic Grant program must be approved annually by the Michigan Family Independence Agency. The program must be new or expanded service for youth who are within or likely to come under court jurisdiction. The basic grant is a state reimbursement for up to \$15,000 of county expenditures for approved programs.

c. Cost Share

The cost share for pre-adoptive care and the Basic Grant is 100% state. The cost share for certain costs incurred for county operated child care facilities, out-of-home care for court wards, and in-home care is 50% state and 50% county. Expenditures which qualify for state reimbursement of 50% are detailed and described in the Child Care Fund Rules (R400.2001 through 400.2048) and Child Care Handbook (available through the Michigan Family Independence Agency).

d. Billing/Payment Procedure

In each of the above types of care or service, county funds are used to pay the provider. The county must then submit Form DSS 207 for state reimbursement in the ratios stated above.

3. Aid to Dependent Children in Foster Care (Title IV E)

This federal funding source is administered by the Michigan Family Independence Agency. Payment is made by the state.

a. Eligibility

For a child's case to be eligible for Title IV E funding, all of the following criteria must be met:

- 1) The child must meet specific Title IV E eligibility criteria (was or would have been eligible for Title IV E in his/her own home);
- 2) If the child is a court ward (not committed to the state through Act 150 or 220 [MCL 803.301 et seq. or MCL 400.201 et seq.]), the court order must place the child under the "care and supervision" of the Michigan Family Independence Agency;
- 3) The court order must state:
 - a) that it is contrary to the welfare of the child to remain in the home of the parents and
 - b) that reasonable efforts have been made to prevent removal or return the child to the home;
- 4) The child must be placed in an Title IV E fundable placement. Title IV E fundable placements are licensed family foster homes, private non-profit child caring institutions, and small treatment facilities operated by the Michigan Family Independence Agency.

b. Cost Share

The cost share depends on the type of placement. For licensed foster homes and private child caring institutions, the cost share is approximately 50% state, 50% federal. For Arbor Heights Center and Michigan Family Independence Agency's operated residential care center placements the cost share is 50% federal, 25% state, and 25% county.

c. Billing/Payment Procedure

- 1) For children in placement eligible for 50% federal, 50% state funding, the state pays costs and claims federal reimbursement. There are no county costs.

- 2) For children in placement eligible for 50% federal, 25% state, and 25% county, the county is charged back 25% of the costs.

4. State Ward Board and Care (Non Title IV E)

This is the primary funding source for state wards. Payment is made by the Michigan Family Independence Agency.

a. Eligibility

This is the fund which is used for youth committed to the state and accepted through PA 150 [MCL 803.301 et seq.] (delinquency) or PA 220 [MCL 400.201 et seq.] (dependent, abused, neglected) when the youth is not eligible for Title IV E or is not in a Title IV E fundable placement.

b. Cost Share

The cost share is 50% state and 50% county.

c. Billing/Payment Procedure

The state incurs the cost of care if it is provided by state staff and pays for the care if it is provided by a family foster home or private agency. The state then charges the county back 50% of the cost.

B. Collections

1. Collections From Parents, Guardian, and Custodian for Reimbursement of Cost of Care

a. Authority

The court has the authority and responsibility for the collection of reimbursement for the cost of care or service for all minors served by the court or placed by the court with the state in its orders. (see SCAO Approved forms JC 25, 26, and 38)
[MCL 712A.18(2),(3)]

b. Collection Fee

The court may retain 25% of the amounts collected as a result of court ordered reimbursement for Child Care Fund expenditures. The 25% collection fee does not apply to collections received from Social Security, veterans benefits, or other governmental benefits.

c. Collection Share

Money collected by the court for Child Care Fund expenditures must be shared with the state in the same ratio as the cost of care is shared.

1) Child Care Fund

Money collected by the court, for youth funded through the Child Care Fund, is retained by the court. The 25% collection fee is deducted from the amount collected and the remaining 75% is reported as a revenue on the monthly reporting form for state reimbursement.

2) State Ward Board and Care

Money collected for youth funded through the State Ward Board and Care account may be either all retained by the court and reported to the state, or the court may retain the 25% collection fee plus 50% of the remaining amount and send the remaining 50% to the state.

If the court does not remit the state's portion of the collections, the state will make the off-setting adjustment on the monthly state ward chargeback statement.

3) Title IV E

Money collected by the court for youth funded through Title IV E may be retained and reported in the same manner as described under State Ward Board and Care. The 25% collection fee is retained and the remaining 75% is either retained and reported or submitted to the state in the same ratio as costs are shared. The county's share of the costs is either 25% or 0 depending on the type of placement.

Revised "Guidelines for Court Ordered Reimbursement and Procedures for Reimbursement Program Operations" are in the process of being developed. When finalized, they will be available at http://courts.michigan.gov/scao/resources/standards/reimb_guidelines.pdf.

C. Accounting Procedures

Instructions and directions on accounting procedures and how to handle Child Care Fund disbursements and collections for the funding sources are contained in the Uniform Accounting Procedures Manual for County Probate Court Child Care Fund.

6-11 STATE GRANTS FOR COUNTY JUVENILE OFFICERS

A. Introduction

The powers, duties, and compensation of county juvenile officers of the probate courts are prescribed in MCL 400.251. Under the statute funding for the employment of county juvenile officers and assistant county juvenile officers is available through 1) state salary and state fringes, 2) state salary (county fringes), and 3) state grant payments. Each county is allowed one county juvenile officer. The number of assistants is based on the population of the county.

B. Authority

Payment policies and procedures for county juvenile officers and assistant county juvenile officers have been developed by the Michigan Family Independence Agency. Persons employed as county juvenile officers or assistant county juvenile officers as of October 1, 1980 were required to choose one of the three funding options; however, individuals employed after October 1, 1980 can be paid by state grants only. [MCL 400.251, MCL 400.252]

C. Payment System

The amount of the grants for county juvenile officers and assistant county juvenile officers is set forth in statute and is based on the population of the county. The population is defined as the most recent population projection issued by the Department of Management and Budget for the state. The grants are adjusted annually by the same percentage as the annual salary adjustment made for state Civil Service employees who are excluded from representation under Civil Service rules. The grant payments constitute full payment of the state obligation for the salary, expense, and fringe benefits of the county juvenile officer or assistant. [MCL 400.253]

County juvenile officers employed prior to October 1, 1980 who initially selected funding under the salary options may change to funding under state grants. However, once funding under state grants has been assigned, funding may not be reverted back to the salary options.

D. Reporting Use of Grant Money

Grant payments are made in advance on a quarterly basis. At the end of each quarter the county treasurer must submit a certified expenditure report (DSS-56) to the Michigan Family Independence Agency, Payment Document Control Division. This form identifies the amount paid and the position(s) or individual(s) under the grant during the quarter. This report is used to certify that the full amount of the grant was applied to salaries, expenses, and fringe benefits for only those individuals designated as county juvenile officers or assistants.

If in any quarter the full amount of the grant was not applied to salaries, fringes, and expenses of the designated individuals, appropriate adjustments will be made during the following quarter.

Reporting forms will be supplied to county treasurers by the Michigan Family Independence Agency, Bureau of Planning and Fiscal Oversight.

(see also Section 4-17, page 4-17-01)

6-12 STATE REIMBURSEMENT FOR PRISON CASES

A. Felonies Committed by State Prisoners

1. Counties Entitled to Reimbursement

In the following cases committed by inmates of state correctional facilities during a period of state incarceration:

- a. new felony offenses;
- b. new felonies committed during escape; and
- c. escape from custody,

counties in which a state correctional facility is located are entitled to reimbursement for the reasonable and actual costs incurred by the county for:

- a. juror's fees;
- b. witness fees;
- c. fees of attorneys appointed by the court for the defendant; and
- d. transcript fees.

2. Determination of Reasonableness of Expenses

After determination by the Michigan Department of Management and Budget of the reasonableness of the amount to be paid, payment shall be made in accordance with the accounting laws of the state. The determination of reasonableness by the Michigan Department of Management and Budget shall be conclusive.

3. Requesting Reimbursement

Counties are required to submit monthly itemized costs to the Michigan Department of Corrections, Finance Division. Forms and instructions for requesting reimbursement are available from them.

Michigan Department of Corrections
Finance Division
PO Box 30003
Lansing, MI 48909-7503
(517) 373-3797

B. Mentally Ill State Prisoners**1. Counties Entitled to Reimbursement**

For implementing the jurisdictional duties in the probate court imposed on a county by Chapter 10 of the Mental Health Code, MCL 330.2001 et seq., with respect to proceedings involving allegedly mentally ill state prisoners within a state correctional facility in that county:

- a. for transfer of the prisoner to the center for forensic psychiatry for treatment, or
- b. for treatment of the prisoner within a state correctional facility,

the county is entitled to reimbursement for the reasonable and actual expenses incurred by the county for:

- a. the expense of legal counsel appointed to represent an indigent prisoner in the proceeding,
- b. compensation for each juror who is either summoned for voir dire or impaneled on a jury, if a jury trial is demanded in the proceedings,
- c. compensation paid to each witness subpoenaed to the proceeding by the prisoner,
- d. the expense of the preparation of a transcript of the proceeding.

2. Determination of Reasonableness of Expenses

Each county shall submit quarterly its itemized costs for these proceedings to the chief probate judge of the county. After determination by the chief probate judge of the reasonableness of the amount to be paid, payment shall be made in accordance with the accounting laws of the state. The determination of reasonableness by the chief probate judge shall be conclusive.

[MCL 800.455(2)]

6-13 REIMBURSEMENT FROM LITIGANTS

A. Reimbursement for Cost of Appointed Counsel

1. Criminal Cases

If a defendant (in a criminal felony case) is able to pay part of the cost of a lawyer, the court may require contribution to the cost of providing a lawyer and may establish a plan for collecting the contribution. [MCR 6.005(C)]

If a court requires a probationer to pay costs, the costs shall be limited to expenses specifically incurred in prosecuting the defendant or providing legal assistance to the defendant and supervision of the probationer. [MCL 771.3(6)]

In criminal actions where juveniles are charged with life offenses subject to the jurisdiction of the district and circuit court, the court may assess cost of legal representation, or part thereof, against a juvenile or against a person responsible for the support of a juvenile, or both. [MCR 6.905(D)]

2. Juvenile Cases

If the family division of the circuit court appoints an attorney to represent a child, parent, guardian, or custodian, an order of disposition entered under MCL 712A.18 may require the child, parent, guardian, or custodian to reimburse the court for attorney fees. [MCL 712A.18(5)]

If an attorney is appointed for a party under MCL 712A.17c(2), the court may enter an order assessing attorney costs against the party or the person responsible for the support of that party. An order assessing attorney costs may be enforced through contempt proceedings. [MCL 712A.17c(2)]

When an attorney is appointed for a party under MCR 5.915(D), the court may enter an order assessing costs of the representation against the party or against a person responsible for the support of that party, which order may be enforced through contempt proceedings. [MCR 5.915(D)]

If the court appoints an attorney to represent a juvenile, an order entered under this section may require the juvenile or person responsible for the juvenile's support, or both, to reimburse the court for attorney fees. [MCL 769.1(7)]

(See also Section 15, pages 15-02-07, 15-02-08, 15-03-03, and 15-03-04)

B. Reimbursement for the Care of a Child

1. Required Reimbursement

The family division of the circuit court is required to include in any order of disposition placing a juvenile in or committing a juvenile to care outside of the juvenile's own home and under state or court supervision, a provision for reimbursement by the juvenile, parent, guardian, or custodian to the court for the cost of care or service. [MCL 712A.18(2)]

2. Discretionary Reimbursement

An order of disposition placing a juvenile on probation in the juvenile's own home may contain a provision for the reimbursement by the juvenile, parent, guardian, or custodian, to the court for the cost of service. [MCL 712A.18(3)]

3. Guidelines for Reimbursement

The office of the State Court Administrator, under the direction and supervision of the Supreme Court and in consultation with the Michigan Family Independence Agency and the Michigan Probate Judges Association created guidelines and a model schedule which may be used by the court in determining the ability to pay the costs of care and service. Revised "Guidelines for Court Ordered Reimbursement and Procedures for Reimbursement Program Operations" are in the process of being developed. When finalized, they will be available at http://courts.michigan.gov/scao/resources/standards/reimb_guidelines.pdf. The guidelines and model schedule take into account the income and resources of the child, parent, guardian, and custodian. [MCL 712A.18(6)]

4. Collection and Disbursement of Reimbursement

The court shall provide for the collection of all amounts ordered to be reimbursed, and the money collected shall be accounted for and reported to the county board of commissioners. Collections to cover delinquent accounts or to pay the balance due on reimbursement orders may be made after a juvenile is released or discharged from care outside the juvenile's own home and under state, county juvenile agency, or court supervision. Twenty-five percent of all amounts collected pursuant to an order entered under this subsection shall be credited to the appropriate fund of the county to offset the administrative cost of collections. The balance of all amounts collected pursuant to an order entered under this subsection shall be divided in the same ratio in which the county, state, and federal government participate in the cost of care outside the juvenile's own home and under state, county juvenile agency, or court supervision. The court may also collect benefits paid for the cost of care of a court ward from the government of the United States. Money collected for juveniles placed by the court with or committed to the Michigan Family Independence Agency or a county juvenile agency shall be accounted for and reported on an individual juvenile basis. [MCL 712A.18(2)]

C. Reimbursement for Cost of Court Appointed Guardian Ad Litem

The court may assess the cost of providing a guardian ad litem against the party or a person responsible for the support of the party, and may enforce the order of reimbursement through contempt proceedings. [MCR 5.916(D)]

D. Reimbursement of Filing Fees/Costs and Restitution from Prisoner Accounts

1. Filing Fees and Costs

- a. On a claim of indigency (pursuant to MCR 2.002), if a prisoner submits for filing a civil action or an appeal in a civil action, they must include a certified copy of their institutional account showing the current balance and a 12-month history of deposits and withdrawals. The Department of Corrections (DOC) certifies the account. The court shall order the payment or partial payment of fees and costs (SCAO Form CC 20a). [MCL 600.2963(1)]
- b. The filing shall be suspended by the court until payment, or partial payment, as ordered by the court is made. All documents are to be returned to the prisoner, plus two certified copies of the court order for payment of fees and costs. The court shall also send the DOC facility a copy of the certified order. [MCL 600.2963(1)]
- c. The prisoner has 21 days after the court order to resubmit the documents for filing, the filing fee (or partial filing fee) and one certified copy of the order. If the filing fee is not received within 21 days after the day it was ordered, the court shall not file the action and all documents are to be returned to the prisoner by the court. [MCL 600.2963(1)]
- d. The full filing fee shall be ordered by the court if there are sufficient funds in the account upon filing. [MCL 600.2963(2)]
- e. If the account is less than the full filing fee, the court shall require payment of an initial partial fee in an amount equal to 50% of the greater of:
 - 1) The average monthly deposits for 12 months preceding the date of filing.
 - 2) The average monthly balance in the account for 12 months preceding the date of filing.

[MCL 600.2963(3)]

- f. The court shall disregard amounts in the institutional account that are required by law or by another court order to be paid for any other purposes when determining the balance under subsections (2) or (3). [MCL 600.2963(4)]
- g. In addition to an initial partial filing fee under subsection (3), the court shall order the prisoner to make monthly payments in an amount equal to 50% of the deposits made to the account and shall continue in this manner until the full filing fee is paid. [MCL 600.2963(5)]
- h. Collection and remittal of payments is to be done by the DOC pursuant to MCL 791.268, which calls for DOC to remove the amounts from the account and when the court ordered amount is received, submit it to the court. [MCL 600.2963(5)]
- i. If costs are assessed against a prisoner and there is not sufficient funds in the account, the court shall order payments in the same manner as provided in this section. [MCL 600.2963(5)]
- j. The total amount collected shall not exceed the full amount of fees and costs required by law. [MCL 600.2963(6)]
- k. The fact of incarceration cannot be the sole basis for determination of indigency. However, this section shall not prohibit a prisoner from starting an action if the prisoner has no assets and no means by which to pay the initial partial filing fee. If payment of fees and costs is waived or suspended, the court shall order the fees and costs paid in the manner provided by this section when the reason for waiver or suspension no longer exists. [MCL 600.2963(7)]
- l. A prisoner who has failed to pay outstanding fees and costs as required under this section shall not commence a new civil action or appeal until the outstanding fees and costs have been paid. [MCL 600.2963(8)]
- m. If a prisoner is ordered by a court to make monthly payments for the purpose of paying the balance of filing fees or costs under MCL 600.2963, the agency having custody of the prisoner shall remove those amounts from the institutional account of the prisoner subject to the order and, when an amount equal to the balance of the filing fees or costs due is removed, remit that amount as directed in the order. [MCL 600.2963(9)]
- n. **DOC Policy - Director's Office Memorandum 1997-55, effective 6/1/97**
 - 1) Court orders supersede policy where the court order is inconsistent with policy.

2) Priority for payments:

- a) Victim restitution
 - b) Child support only if by court order
 - c) Filing fees or costs
 - d) Other court-ordered payments
 - e) Fees for medical services
 - f) Other institutional debts in chronological order
- 3) Once funds ordered to be removed from prisoner's account have been collected in full or when the prisoner transfers to residential and electronic programs, paroles, discharges from DOC jurisdiction or dies, the funds collected shall be sent to the court that issued the order with an explanation of the circumstances for sending the funds.

2. Victim Restitution

- a. Establishes Crime Victim Services Commission (abolishes criminal assessments commission). [MCL 780.901 et seq.]
- b. Adds reference to definition of juvenile to include family division of circuit court for offenses where the juvenile is not tried as an adult. [MCL 780.901 et seq.]
- c. If restitution is ordered and the DOC receives a copy of the restitution order from the court, the DOC shall deduct 50% of the funds received by the prisoner in a month over \$50 for payment of restitution. DOC is to forward the money to the crime victim when the amount exceeds \$100 or the entire amount if the prisoner is paroled, transferred to community programs or discharged on the maximum sentence. DOC is to notify the prisoner in writing of all deductions and payments. This requirement remains in effect until all restitution is paid.
- d. Restitution orders are non-modifiable by DOC. [MCL 791.220h]
- e. The court shall not order restitution to be paid to a victim or their estate if they are to receive compensation for that loss and the court shall state on the record with specificity the reasons for its action. [MCL 769.1a(8)]
- f. If an entity entitled to restitution cannot or refuses to be reimbursed, the money is to be deposited into the state treasury in the crime victim's rights fund. [MCL 769.1a(8)]

- g. A defendant may petition the sentencing judge to modify restitution; the court must determine that payment under the order will impose a manifest hardship on the defendant or his or her immediate family and may modify the method of payment. [MCL 769.1a(12)]
- h. An order of restitution is effective until satisfied in full. An order of restitution is a judgment and lien against all property of the defendant for the amount specified in the order of restitution. The lien may be recorded as provided by law. [MCL 769.1a(13)]
- i. The court shall provide a copy of the order of restitution (contained on the Judgment of Sentence/Commitment to DOC) to DOC when they are remanded to the jurisdiction of the DOC. [MCL 769.1a(16)]

6-14 COMPENSATION FOR CRIME VICTIM RIGHTS SERVICES

A. Authority

The family division of the circuit court is required to advise victims of offenses alleged to have been committed by juveniles, who are referred to the court, of specific rights. The court then must respond to requests for consultation, documents and information as required by statute. [MCL 780.781-.802]

B. Compensation for Services

The Office of Contract Management, Michigan Department of Management and Budget, will reimburse reasonable expenditures of the court required to comply with the statute. These expenditures are expected to be for those costs incurred for clerical staff time, materials, and postage. Costs for other items should be reviewed with the Michigan Department of Management and Budget staff before they are incurred. Cost claims forms (OCJ 604) are available from them. (see also Section 11-05, pages 11-05-01 through 11-05-04)
[MCL 780.751-.83]

Office of Contract Management
Michigan Department of Management and Budget
PO Box 30026
Lansing, MI 48909
(517) 373-7373

6-15 CRIMINAL ASSESSMENTS

A. Authority and Purpose

Criminal assessments are authorized under MCL 780.905 to pay for crime victim rights services under Section 24 of Article I of the State Constitution of 1963 and are collected by the district and circuit courts. Based on a formula determined by the Department of Community Health, Crime Victims Services Commission, courts are compensated for the costs associated with collection of criminal assessments. [MCL 780.906]

B. Responsibilities of Circuit and District Court

1. Collecting Assessments

The court shall order each person convicted of a felony to pay an assessment of \$60.00 and shall order each person convicted of a serious misdemeanor or a specified misdemeanor to pay an assessment of \$50.00.

The family division of the circuit court shall order each juvenile for whom the court enters an order of disposition for a juvenile offense to pay an assessment of \$20.00. A juvenile offense is defined as an offense, that if committed by an adult would be a felony, serious misdemeanor, or a specified misdemeanor.

The court shall order a person to pay only one assessment for each criminal case. If the court allows the payment of victim payments and any other combination of other fines, costs, assessments, probation supervision fees, or other payments to be paid in installments, the assessment shall be a condition of a probation order. Fifty percent of all money collected from the person shall be applied to payment of victim payments and the balance shall be applied toward payments of fines, costs, assessments, probation supervision fees, or other payments.

2. Transmitting Assessments

The clerk of the court shall, on the last day of each month, do both of the following:

- a. Transmit all of the assessments received to the Department of Treasury with a written report of those assessments as prescribed by the Department of Treasury (forms L295 and LGA57).
- b. Transmit a written report to the Department of Community Health, Crime Victims Services Commission on form CVR 606 (Crime Victim Rights Assessment Report) containing all of the following information for that month:

- 1) the name of the court.
- 2) the total number of assessable convictions obtained in that court.
- 3) the total number of defendants against whom an assessment was imposed by the court.
- 4) the total amount of assessments imposed by that court.
- 5) the total amount of assessments collected by that court.
- 6) other information required by the Crime Victims Services Commission.

[MCL 780.905]

C. Compensation for Administrative Costs

Circuit and district courts are compensated for the administrative costs involved in collecting the criminal assessments and for providing the Crime Victim Rights Assessment Report (CVR 606). Each court retains a percentage, determined by the Crime Victims Services Commission, of the total assessments based on the level of reporting made on CVR 606. [MCL 780.906]

6-16 COURT EQUITY FUND

A. Authority and Purpose

The Court Equity Fund was created in 1996 by the state legislature as a source of funding to Michigan's trial courts. The fund receives state general fund/general purpose funds as well as portions of trial court revenue collections.

B. Administration of Fund

The fund is distributed to trial court funding units quarterly, commencing with the state fiscal year beginning October 1, 1996. Distributions are governed by statutory formula qualifications, fund revenue collections and state appropriations. Qualification for distribution from this fund is outlined below. The State Court Administrative Office is responsible for administering the fund.

1. Definitions

a. Qualifying Period

This is the period of caseload reporting used in calculating the relative caseload percentage. For the first year of the fund, state fiscal year beginning October 1, 1996, the qualifying period is calendar year 1995. For state fiscal year beginning October 1, 1997, the qualifying period is the last two calendar years for which reasonably complete caseload statistics are available. For state fiscal year beginning October 1, 1998 and each subsequent year, the qualifying period is the last three calendar years for which reasonably complete caseload statistics are available.

b. Relative Caseload

A percentage derived by using a county's qualifying caseload over a statewide total for the qualifying period. Qualifying caseload includes the caseloads of circuit courts including Recorder's court and all probate and probate district courts. If a court includes more than one county in its jurisdiction, the relative caseload calculation for a county would include only the caseload attributed to that county.

c. Formula

- 1) The relative caseload (%) of each county is multiplied by the total amount available for distribution from the court equity fund.

- 2) A calculation is made to determine the percentage of statewide judgeships allocated to each county (includes all probate, circuit and district court judgeships within the county). If a judge serves more than one county, the county will be credited for that judge only for the fraction of the judicial salary standardization payment that the state reimburses that county.
- 3) The amount determined under 1) for each county is multiplied by the sum of 1 and the ratio of judges for each county determined under 2). The total of the individual county amounts determined will exceed the amount available for distribution so a calculation is made to determine the pro rata share of the amount available for distribution for each county.

C. Hold Harmless Fund

This fund is created in the State Treasury for five years commencing with the fiscal year beginning October 1, 1996. The fund has received appropriations of \$20 million of state general funds for the first year of operation. Special provisions in the enacting legislation reduce the amount of future fiscal year intended appropriations to the fund by \$4 million each year as well as outline specific formulas for the County of Wayne and the City of Detroit to receive funding from the Hold Harmless Fund. A calculation is needed to determine if a city or a county other than the County of Wayne and the City of Detroit will qualify for funding from this fund.

A county may qualify for funding if it is determined that the county would receive less funding from the Court Equity Fund formula in the fiscal year in question than they had received in the state fiscal year beginning October 1, 1995 from the State Court Fund and the Juror Fee Reimbursement Program combined. Counties that fall under this condition for a given fiscal year would be entitled to funds from the Hold Harmless Fund equal to the difference of the level of funding the county received from the State Court Fund and the Juror Fee Reimbursement Program in state fiscal year 1995-96 and the calculation of funding the county is expected to receive from the Court Equity Fund in the given fiscal year.

A city may qualify for funding if they received funding from the State Court Fund in the state fiscal year beginning October 1, 1995. Cities that fall under this condition would be entitled to funds from the Hold Harmless Fund equal to the amount of funding the city received from the State Court Fund in state fiscal year 1995-96.

If the appropriation of state funds to the Hold Harmless Fund exceeds the total claims by qualifying cities and counties, the balance will be retained in a work project account to be added to the appropriation for the Hold Harmless Fund for the following fiscal year. If the total claims exceeds the appropriation of state funds to the Hold Harmless Fund, each claimant will receive a pro rata share of the available funds.